

APPEAL NO. 031400  
FILED JULY 23, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 1, 2003. The hearing officer resolved the disputed issues by deciding that the appellant/cross-respondent's (claimant) date of injury (DOI) is \_\_\_\_\_; that she did not sustain a compensable injury in the form of an occupational disease on \_\_\_\_\_; that she timely reported the alleged injury; and that she did not have disability. The claimant appealed the hearing officer's injury and disability determinations based on sufficiency of the evidence grounds, and based on the "findings and comments of the Hearing Officer." The respondent/cross-appellant (carrier) appealed, asserting that the hearing officer erred in determining the DOI and timely notice issues. The carrier responded to the claimant's appeal and urged affirmance.

DECISION

Affirmed.

The claimant had the burden to prove the DOI pursuant to Section 408.007; that she sustained a compensable injury in the form of an occupational disease as defined in Section 401.011(34); that she gave timely notice of injury to the employer pursuant to Section 409.001; and that she has had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The claimant argues that the medical evidence supports her contention that she sustained a compensable injury in the form of an occupational disease, and that the hearing officer's comments and findings suggest that the claimant's preexisting asthmatic condition, an ordinary disease of life, was aggravated by an injury at work. However, the hearing officer specifically comments that the medical evidence reflects that the claimant experienced "adult onset of asthma in approximately 1995," that the claimant experiences her asthma as an ordinary disease of life, and that there is no causal connection with the claimant's asthma and her work for the employer. The hearing officer specifically found that the claimant's work for the employer from 1995 through 1998 has no causal connection with the claimant's alleged asthma/restrictive airway disease and bronchitis. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERISURE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CINDY GHALIBAF  
7610 STEMMONS FREEWAY, SUITE 350  
DALLAS, TEXAS 75247.**

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Veronica Lopez-Ruberto  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge